

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,

v.

No. 08 –CR-241-7

The Honorable Blanche Manning

RUEBEN ROMO

**MOTION TO DISMISS OR ALTERNATIVE FOR BILL OF
PARTICULARS**

Defendant, RUEBEN ROMO, by his attorney, Eugene O'Malley, moves the court to dismiss the indictment filed herein, pursuant to Rule 12(b) of the Federal Rules of Criminal Procedure, in the alternative, for an order, pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure, directing the government to file and serve on the defendant a bill of particulars, on the following grounds:

- 1) The indictment filed herein purports to allege a violation of 21 U.S.C. §§ 841 and 846, but fails to state sufficient facts that support or constitute such offenses.
- 2) The indictment filed herein fails to allege facts sufficient to constitute an offense of possession with conspiracy to distribute or attempted conspiracy to possess with intent to distribute against the United States or the laws thereof.
- 3) The indictment filed herein is vague and uncertain, and fails to be or contain a plain, concise, and definite written statement of the essential facts constituting the offense sought to be charged.
- 4) Various of the material allegations contained in the indictment filed herein are contradictory and inconsistent with each other, as a result of which the indictment fails to adequately and fairly inform the defendant of the offense sought to be charged against him.
- 5) The indictment filed herein was based on incompetent and insufficient evidence, and there was no substantial or rationally persuasive evidence submitted in support of the indictment filed herein.

- 6) Alternatively, defendant requests that the Court enter an order requiring the government to furnish the information sought below with respect to the superseding indictment, so as to permit defendant to be adequately apprised of the scope of the government's allegations in order to allow defendants to adequately prepare for trial and to avoid being twice placed in jeopardy for the same offense.

Defendant seeks only the specific and limited information set forth below and submits that, because the superseding indictment in this case is ambiguous and unclear, and calls into question what elements of the indictment defendant, RUEBEN ROMO, must be prepared to defend against at trial, such information is essential to properly prepare a defense and so that this indictment will serve as a bar to future prosecutions for the same offense.

Defendant requests, therefore, that the Court enter its order requiring the government to provide the following particulars:

A. With respect to defendant, RUEBEN ROMO:

- 1 . State the date on which RUEBEN ROMO became a member of the conspiracy.**
- 2 . State the names of all alleged conspirators.**
- 3 . State the date and location of each action alleged to have been performed by defendant, RUEBEN ROMO, in furtherance of the conspiracy.**
- 4. State the date and place of each act of any material support and resources provided by defendant, RUEBEN ROMO, in furtherance the conspiracy.**
- 5. State what material support and resources were provided on each such occasion, and to whom.**

B. With respect to any oral statements of the defendant, state with respect to each such statement, if there was more than one:

- a. The name and address of the person to whom the statement was made;**

- b. The date on which the statement was made;**
 - c. The place where it was made;**
 - d. The substance of the statement;**
 - e. Whether the person to whom the statement was made was a government agent at the time of the statement;**
 - f. The names and addresses of any other persons present at the time the statement was made; and**
 - g. Whether a written memorandum or verbatim transcript of the oral statement was made, and, if so, whether the government has possession of the memorandum or transcript.**
- 7) This motion is based on all files and records in this case.**
- 8) Defendant requests this Honorable Court to allow defendant 21 days to submit a Memorandum of Points and Authorities in support hereof.**

Respectfully submitted,

s/Eugene O'Malley
Eugene O'Malley, Attorney for Defendant

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